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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 Cliff Wadiak, *Trustee of the Don Har Trust*,

12 Plaintiff,

13 v.

14 Vincent Woodhall, et al.,

15 Defendants.
16

No. 2:21-cv-01075-KJM-AC

ORDER

17 Defendants Vincent and Larri Lynn Woodhall, proceeding pro se, removed this unlawful
18 detainer action, Notice of Removal, ECF No. 1, and moved to proceed here in forma pauperis,
19 Mot., ECF No. 2. The court **remands the case to Sacramento County Superior Court** and
20 **denies** the motion to proceed in forma pauperis.

21 When a case “of which the district courts of the United States have original jurisdiction” is
22 initially brought in state court, a defendant may remove it to federal court. 28 U.S.C. § 1441(a).
23 The court strictly construes removal statutes against removal. *Takeda v. Nw. Nat. Life Ins. Co.*,
24 765 F.2d 815, 818 (9th Cir. 1985). A federal district court may remand a case sua sponte where a
25 defendant has not established federal jurisdiction. *See* 28 U.S.C. § 1447(c) (“If at any time before
26 final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be
27 remanded”); *Enrich v. Touche Ross & Co.*, 846 F.2d 1190, 1195 (9th Cir. 1988). There are
28 two primary bases for federal subject matter jurisdiction: diversity and federal question.

1 Diversity jurisdiction exists where the amount in controversy exceeds \$75,000 and the
2 parties are in complete diversity. 28 U.S.C. § 1332. The court has federal question jurisdiction
3 over “all civil actions arising under the Constitution, laws, or treaties of the United States.” 28
4 U.S.C. § 1331. Under the well-pleaded complaint rule, a suit “arises under” federal law “only
5 when the plaintiff’s statement of his own cause of action shows that it is based upon [federal
6 law].” *Louisville & Nashville R. Co. v. Mottley*, 211 U.S. 149, 152 (1908). Federal question
7 jurisdiction cannot rest upon an actual or anticipated defense or counterclaim. *Vaden v. Discover*
8 *Bank*, 556 U.S. 49, 60 (2009).

9 Defendants removed the case here asserting federal question jurisdiction. *See* Compl. ¶ 5.
10 Defendants contend the plaintiff’s complaint “intentionally fails to allege compliance with the
11 Civil Rights Act of 1968[], tenant protection act of 2019, & intentionally violates the Federal
12 Public Service Act 42 U.S.C. 264 & 42 Code of Federal Regulations 70.2.” *Id.* ¶ 6. Defendants
13 also insist resolution of the action depends on federal law. *Id.* ¶ 7. However, the complaint does
14 not present a federal question and any defense or counterclaim defendants intend to present based
15 on the above listed statutes does not create federal question jurisdiction. *Gaus v. Miles, Inc.*, 980
16 F.2d 564, 566 (9th Cir. 1992) (“Federal jurisdiction must be rejected if there is any doubt as to the
17 right of removal in the first instance.”).

18 For the foregoing reasons, the court has determined sua sponte that it lacks subject matter
19 jurisdiction, and thus **remands** this matter to Sacramento County Superior Court. As a result,
20 defendant’s motion for in forma pauperis status is **denied** as moot.

21 This order resolves ECF No. 2.

22 The Clerk is directed to close the case.

23 IT IS SO ORDERED.

24 DATED: June 22, 2021.

25
26 
27 CHIEF UNITED STATES DISTRICT JUDGE